

REMARKS

Claims 8-9, 11-14, 17-19, and 23-29 are pending in the application.

Per an agreement with the Examiner (explained below) to place the case in condition for allowance, Applicant has taken the following actions:

1. Amended Claim 8 to place Claim 8 in condition for allowance;
2. Amended Claim 9 into independent form to place Claim 9 in condition for allowance;
3. Cancelled Claims 10-11;
4. Added new Claims 28 and 29 and cancelled Claims 15 and 20;
5. Amended Claims 17-19 to overcome the rejections based upon 35 U.S.C. § 101 and depend from Claim 28;
6. Amend Claim 23-27 to depend from Claim 39; and
7. Cancel Claims 16 and 21-22.

No new matter was added to the application and no new search is required. Applicant now believes that the application is in condition for allowance, and respectfully requests reconsideration and allowance of Claims 8-9, 11-14, 17-19, 23-29 in view of the following remarks.

Telephonic Interview

Applicant thanks the Examiner for the courtesies extended to the Applicant's attorney, Sanders N. Hillis, Attorney Reg. No. 45,712, and Karl F. Horlander during the telephone interview (hereinafter First Interview) on September 9, 2008. In the First Interview, the Examiner indicated that Claims 8 could be placed in condition for allowance by amending Claim 8 to include the limitations of either Claims 10 and 11 or Claims 11 and 12.

Applicant also thanks the Examiner for the courtesies extended to the Applicant's attorney, Karl F. Horlander, Reg. No. 63,147 during the telephone conversations (hereinafter Conversations) on October 30-31, 2008 and November 3, 2008. In the Second Interview, the Examiner suggested language for Claims 28 and

16-19, which would overcome the rejections based upon 35 U.S.C. § 101. Applicant also thanks the Examiner for the suggested clarifying language for Claim 29, and 22-27 in view of the recent case *In re Bilski*, ___ F.3d ___ (Fed.Cir.2008) (en banc).

During the Conversations, the Applicant and Examiner reached an agreement to place the case in condition for allowance, which is reflected in the amended claims. In particular, the Examiner agreed to enter amendments to Claim 8 and accept entry of New Claims 28 and 29 to place the application in condition for allowance.

Information Disclosure Statement

An Information Disclosure Statement was filed on August 2, 2007 together with a PTO Form 1449 listing the references cited therein. We have received an initialed copy of the PTO Form 1449. However, Reference B1, U.S. Pat. Publication No. 2003-0051041 A1 was not initialed as having been considered by the Examiner. Applicant respectfully requests a copy of the PTO Form 1449 with initials next to U.S. Pat. Publication No. 2003-0051041 A1 to confirm that U.S. Pat. Publication No. 2003-0051041 A1 has been considered and made of record in the case.

Claim Rejections – 35 U.S.C. § 101

Claims 15-19 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant has cancelled Claim 15 and otherwise amended Claims 16-19 in accordance with the Examiner's recommendation to overcome these rejections. Accordingly, Applicant respectfully request entry of the amendments of Claims 16-19.

Claims Rejections – 35 U.S.C. § 103

Applicant thanks the Examiner for recognizing the allowable subject matter of Claim 9.

The office action asserted that Claims 8, 11, 14-22, 24-27 were obvious under 35 U.S.C. 103(a) as being unpatentable over Judge et al. (US 6,430,570 B1) in view of Ruutu (US 2004/0205769 A1) and further in view of DeSimone (US 6,138,141 A).

The office action asserted that Claims 10 and 13 were obvious under 35 U.S.C. 103(a) as being unpatentable over Judge et al. (US 6,430,570 B1) in view of Ruutu (US 2004/0205769 A1) in view of DeSimone (US 6,138,141 A) as applied to claim 8, and further in view of Woodring (US 2003/0063731 A1).

The office action asserted that Claims 12 and 23 were obvious under 35 U.S.C. 103(a) as being unpatentable over Judge et al. (US 6,430,570 B1) in view of Ruutu (US 2004/0205769 A1) in view of DeSimone (US 6,138,141 A) as applied to claim 8, and further in view of Kalavade et al. (US 2003/0051041 A1).

Claim 8-9 and 12-14.

Applicant has amended Claim 9 into independent form. Accordingly, Claim 9 is in condition for allowance.

Applicant has amended Claim 8 in accordance with the agreement reached during the First Interview to place Claim 8 in condition for allowance. Claims 10 and 11 are cancelled. Accordingly, Applicant respectfully request entry to the amended claims and submits that Claim 8 or the claims dependent thereupon are in condition for allowance.

New Claims 17-19 and 27.

Applicant has cancelled Claims 15-16. Based upon the agreement reached in the Conversations, Applicant has added new Claim 28. Per the Examiner's suggestions, Applicant has amended Claims 17-19 to depend from Claim 28 and place Claims 17-19 in condition for allowance.

Accordingly, Applicant respectfully submits that Claims 28 and 17-19 are in condition for allowance.

Claims 23- 27 and 29.

Applicant has cancelled Claims 20-22. Based upon the agreement reached in the Conversations, Applicant has added new Claim 29. Claims 23-27 have been amended to depend from Claim 29.


Accordingly, Applicant respectfully submits that Claims 29 and 21-27 are in condition for allowance.

Conclusion

Applicant thanks the Examiner for recognizing the allowable subject matter of the as amended Claims 8-9, 11-14, 17-19, and 23-29. For at least the above reasons, Applicant believes that the application is in condition for allowance, and respectfully requests the Examiner to issue a Notice of Allowance for this application.

Should the Examiner deem a telephone conference to be beneficial in expediting allowance/examination of this application, Applicant invites the Examiner to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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